THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.6940 of 2006

Dt.10.4.2006

Between:

A.Bala Venkata Reddy and another … Petitioners

And

Kurnool Municipal Corporation,

Kurnool, Kurnool District, rep. By its

Commissioner and others …Respondents

ORDER:

This writ petition is filed seeking a writ of mandamus declaring the alleged action of the 2nd respondent directing the petitioners to obtain “No Objection Certificate” from the District Collector, Kurnool for the purpose of releasing the construction permission as arbitrary and illegal.

The learned counsel for the petitioners states that the issue involved

in this writ petition is squarely covered by the decision of this Court in *HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD* wherein it has been held as under:

> "The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objection(s) whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any dispute questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purpose of granting permission and nothing more."

The learned counsel also states that W.A.No.1096 of 2001 filed against the said decision was disposed of by the Division Bench observing that the Commissioner while acting under Section 429(1)(a) of the Hyderabad Municipal Corporation Act, read with relevant building bylaws acts as a statutory authority and required to make decision on relevant material and facts and it is not legally permissible for such authority to base its decisions only on one piece of relevant material and to exclude other relevant material.

The learned counsel for the petitioners has relied upon a decision of the Division Bench of this Court in *G.JAYAMALA AND OTHERS v. THE COMMISSIONER, MUNICIPAL CORPORATION OF HYDERABAD*, wherein it was held that insistence of the Municipal Corporation to produce a No Objection Certificate from the Collector, Hyderabad with regard to the title as a condition precedent for processing the application for sanction of the layout is arbitrary and illegal.

The learned Standing Counsel appearing for the respondent-

Corporation does not dispute the above legal position.

Accordingly, the impugned endorsement in B.A.NO.29/2006/ G1, dated 14.2.2006 of the 2nd respondent is set aside and the writ petition is disposed of with a direction to the respondents to reconsider the application of the petitioners in the light of the above decisions and pass appropriate orders in accordance with law without insisting on production of No Objection Certificate from the District Collector.

The writ petition is disposed of accordingly. No order as to costs.

V.ESWARAIAH, J.

10.4.2006

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